



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-893]

Certain Frozen Warmwater Shrimp from the People's Republic of China: Preliminary Results of Administrative Review; 2011-2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: In response to requests from interested parties, the Department of Commerce ("Department") is conducting the administrative review of the antidumping duty order on certain frozen warmwater shrimp ("shrimp") from the People's Republic of China ("PRC"), covering the period of review ("POR") from February 1, 2011, through January 31, 2012. As discussed below, the Department preliminarily determines that Zhanjiang Regal Integrated Marine Resources Co., Ltd. ("Regal") did not make sales in the United States at prices below normal value ("NV") during the POR. Additionally, the Department preliminarily determines that Hilltop International ("Hilltop") failed to cooperate to the best of its ability in this review. The Department is finding Hilltop to be part of the PRC-wide entity to which we are applying adverse facts available ("AFA") as discussed below.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Katie Marksberry or Josh Startup, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-7906 or (202) 482-5260 respectively.

## SUPPLEMENTARY INFORMATION:

### Scope of the Order

The merchandise subject to the order is certain frozen warmwater shrimp.<sup>1</sup> The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description, available in Certain Frozen Warmwater Shrimp From Brazil, India, the People's Republic of China, Thailand, and the Socialist Republic of Vietnam: Amended Antidumping Duty Orders in Accordance with Final Court Decision, 76 FR 23277 (April 26, 2011), remains dispositive.

### PRC-Wide Entity

During the review, Hilltop notified the Department that it declined to answer further requests for information in this proceeding.<sup>2</sup> Accordingly, the Department will preliminarily treat Hilltop as part of the PRC-wide entity. Because the PRC-wide entity, which includes Hilltop, failed to cooperate by not acting to the best of its ability in this review, we are preliminarily applying adverse facts available ("AFA") to the PRC-wide entity, in accordance with sections 776(a) and (b) of the Tariff Act of 1930, as amended (the "Act").<sup>3</sup>

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<sup>1</sup> See the Decision Memorandum for Preliminary Results for the Antidumping Duty Administrative Review of Warmwater Shrimp from the People's Republic of China," ("Preliminary Decision Memorandum") from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Import Administration, dated concurrently with these results, for a complete description of the Scope of the Order.

<sup>2</sup> See Hilltop's October 3, 2012, submission, Re: Further Information Requests for Hilltop International in the Seventh Administrative Review of Certain Frozen Warmwater Shrimp from the People's Republic of China, Case No. A-570-893.

<sup>3</sup> See Preliminary Decision Memorandum, at 6.

## Methodology

The Department has conducted this review in accordance with section 751(a)(1)(A) of the Act. Export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a nonmarket economy within the meaning of section 771(18) of the Act, normal value has been calculated in accordance with section 773(c) of the Act. For a full description of the methodology underlying our conclusions, please see the Preliminary Decision Memorandum, dated concurrently with these results and hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System ("IA ACCESS"). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit ("CRU"), room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://www.trade.gov/ia/>. The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

## Preliminary Determination of No Shipments

On April 18, 2012, the Department received a "no shipment certification"<sup>4</sup> from Allied Pacific Food (Dalian) Co., Ltd. and Allied Pacific Aquatic Products (Zhanjiang) Co., Ltd. (collectively "Allied Pacific Group").<sup>5</sup> On March 28, 2012, the Department received a properly filed "no shipment certification"<sup>6</sup> from Shantou Yuexing Enterprise Company ("SYEC"). In its certification, SYEC also requested that the Department rescind the review with respect to SYEC,

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<sup>4</sup> Companies have the opportunity to submit statements certifying that they did not enter, export or sell subject merchandise to the United States during the POR.

<sup>5</sup> See Letter from Allied Pacific Group, No Shipment Certificate, dated April 18, 2012.

<sup>6</sup> Companies have the opportunity to submit statements certifying that they did not enter, export or sell subject merchandise to the United States during the POR.

pursuant to 19 CFR 351.213(d)(3).<sup>7</sup> On April 6, 2012, the Department received a properly filed “no shipment certification” from Rizhao Smart Foods Co., Ltd. (“Smart Foods”)<sup>8</sup>

On April 20, 2012, the Department sent inquiries to U.S. Customs and Border Protection (“CBP”) to determine whether CBP entry data is consistent with SYEC’s and Allied Pacific Group’s no shipments certifications and received no information contrary to that statement. On February 5, 2013, the Department sent an inquiry to CBP to determine whether CBP entry data consistent with Smart Foods no shipment certification and received no information contrary to that statement. As CBP only responds to the Department’s inquiry when there are records of shipments from the company in question<sup>9</sup> and no party submitted comments, we preliminarily determine that SYEC, Allied Pacific Group, and Smart Foods had no shipments during the POR.

Based on SYEC’s, Allied Pacific Group’s and Smart Foods’ certifications and our analysis of CBP information, we preliminarily determine that SYEC, Allied Pacific Group, and Smart Foods did not have any reviewable transactions during the POR. In addition, the Department finds that consistent with its recently announced refinement to its assessment practice in NME cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to SYEC, Allied Pacific Group, and Smart Food and issue appropriate instructions to CBP based on the final results of the review.<sup>10</sup>

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<sup>7</sup> See Letter from Shantou Yuexing regarding Request for Rescinding an Administrative Review dated March 28, 2012.

<sup>8</sup> See Letter from Smart Foods, dated April 6, 2012.

<sup>9</sup> See Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Flat Products From Brazil: Notice of Rescission of Antidumping Duty Administrative Review, 75 FR 65453, 65454 (October 25, 2010); Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Notice of Intent to Rescind Administrative Review, 74 FR 3559, 3560 (January 21, 2009); and Certain In-Shell Raw Pistachios from Iran: Rescission of Antidumping Duty Administrative Review, 73 FR 9292, 9293 (February 20, 2008).

<sup>10</sup> See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011) and the “Assessment Rates” section, below.

### Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist.

<b>Exporter</b>	<b>Weighted Average Dumping Margin</b>
Zhanjiang Regal Integrated Marine Resources Co., Ltd.	0.00%
PRC-Wide Entity (which includes Hilltop International) <sup>11</sup>	112.81%

### Disclosure and Public Comment

The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice. Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using Import Administration's IA ACCESS. An electronically filed document must be received successfully in its entirety by Import Administration's IA ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.<sup>12</sup> Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing. Interested parties are invited to comment on the preliminary results of this review.

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<sup>11</sup> The Department preliminarily determines that 70 PRC exporters have not demonstrated their eligibility for separate rate status. See Appendix 1 and Preliminary Decision Memorandum, at 6.

<sup>12</sup> See 19 CFR 351.310(c).

Because, as noted below, the Department may verify the information upon which we will rely in making our final determination, the Department will establish the briefing schedule at a later time, and will notify parties of the schedule in accordance with 19 CFR 351.309. Interested parties may file rebuttal briefs, limited to issues raised in the case briefs.<sup>13</sup> The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities cited. The Department intends to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the Federal Register.

#### Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication of the final results of this review. For any individually examined respondent whose weighted average dumping margin is above de minimis (i.e., 0.50 percent) in the final results of this review, the Department will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of sales, in accordance with 19 CFR 351.212(b)(1). In these preliminary results, the Department applied the assessment rate calculation method adopted in Final Modification for Reviews,<sup>14</sup> i.e., on the basis of monthly average-to-average comparisons using only the transactions associated with that

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<sup>13</sup> See 19 CFR 351.309(d).

<sup>14</sup> See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification, 77 FR 8101 (February 14, 2012) ("Final Modification for Reviews").

importer with offsets being provided for non-dumped comparisons. Where an importer- (or customer-) specific ad valorem rate is greater than de minimis, the Department will instruct CBP to collect the appropriate duties at the time of liquidation.<sup>15</sup> Where an importer- (or customer-) specific ad valorem is zero or de minimis, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.<sup>16</sup>

The Department recently announced a refinement to its assessment practice in NME antidumping duty cases. Pursuant to this refinement in practice, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (i.e., at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, pursuant to this recently announced refinement, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the PRC-wide rate.<sup>17</sup>

#### Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above, which has a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or de minimis, then zero cash deposit will be required); (2) for

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<sup>15</sup> See 19 CFR 351.212(b)(1).

<sup>16</sup> See 19 CFR 351.106(c)(2).

<sup>17</sup> For a full discussion of this practice, see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011).

previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

### Post-Preliminary Results

As further explained in the Preliminary Decision Memorandum, Regal has requested a company-specific revocation pursuant to 19 CFR 351.222.<sup>18</sup> The Department is currently analyzing Regal's request and intends to issue post-preliminary results regarding Regal's revocation request. Additionally, on May 11, 2012, Zhanjiang Newpro Foods Co., Ltd. ("Newpro") submitted a timely separate rate application.<sup>19</sup> When the Department originally reviewed the separate rate application it inadvertently overlooked information regarding the entry documentation. Upon a recent further examination of the separate rate application, the Department discovered a discrepancy that required the Department to request further information from Newpro to determine the appropriateness of granting Newpro a separate rate.<sup>20</sup> Until the Department has fully analyzed the recently requested information the Department is unable to make a determination regarding whether it is appropriate to grant

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<sup>18</sup> See Regal's Request for Administrative Review and Revocation, dated February 28, 2012, at 2-3. See also Regal's 4<sup>th</sup> Supplemental Questionnaire Response, dated December 7, 2012, at 1.

<sup>19</sup> See Newpro's Separate Rate Application filed May 11, 2012 ("Newpro SRA").

<sup>20</sup> See letter from Catherine Bertrand, to Zhanjiang Newpro Foods Co., Ltd. ("Newpro"), Re: Certain Warmwater Shrimp from the People's Republic of China ("PRC"), dated February 13, 2013.



Newpro a separate rate. Due to the close proximity to the preliminary results, we are unable to take Newpro's response into consideration for the preliminary results. Newpro's response will be taken into consideration for the post-preliminary results. Because the Department cannot determine Newpro's eligibility for a separate rate for these preliminary results, pending the post-preliminary results, Newpro will remain part of the PRC-wide entity, its status before the filing of this separate rate application in this review.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is being issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

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Paul Piquado  
Assistant Secretary  
for Import Administration

March 4, 2013  
Date

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## Appendix 1

Aside from Hilltop, the companies that are not eligible for a separate rate and are part of the PRC-wide entity include:

1. Aqua Foods (Qingdao) Co., Ltd.
2. Asian Seafoods (Zhanjiang) Co., Ltd.
3. Beihai Evergreen Aquatic Product Science And Technology Co Ltd
4. Dalian Hualian Foods Co., Ltd.
5. Dalian Shanhai Seafood Co., Ltd.
6. Dalian Taiyang Aquatic Products Co., Ltd.
7. Dalian Z&H Seafood Co., Ltd.
8. Fujian Chaohui International Trading
9. Fujian Dongshan County Shunfa Aquatic Product Co., Ltd.
10. Fujian Rongjiang Import and Export Corp.
11. Fuqing Minhua Trade Co., Ltd
12. Fuqing Yihua Aquatic Food Co., Ltd.
13. Fuqing Yiyuan Trading Co., Ltd.
14. Guangdong Jiahuang Foods Co., Ltd.
15. Guangdong Jinhang Foods Co., Ltd.
16. Guangdong Shunxin Sea Fishery Co. Ltd.
17. Guangdong Wanya Foods Fty. Co., Ltd.
18. Hai Li Aquatic Co., Ltd.
19. Hainan Brich Aquatic Products Co., Ltd.
20. Hainan Hailisheng Food Co., Ltd.
21. Hainan Xiangtai Fishery Co., Ltd.
22. Haizhou Aquatic Products Co., Ltd.
23. Hua Yang (Dalian) International Transportation Service Co.
24. Kingston Foods Corporation
25. Maoming Xinzhou Seafood Co., Ltd.
26. Ocean Duke Corporation
27. Olanya (Germany) Ltd.
28. Qingdao Yuanqiang Foods Co., Ltd.
29. Rizhao Xinghe Foodstuff Co., Ltd.
30. Rui'an Huasheng Aquatic Products Processing Factory
31. Savvy Seafood Inc.
32. Sea Trade International Inc.
33. Shandong Meijia Group Co., Ltd.
34. Shanghai Linghai Fisheries Trading Co. Ltd.
35. Shanghai Lingpu Aquatic Products Co.
36. Shanghai Smiling Food Co., Ltd.

37. Shanghai Zhoulian Foods Co., Ltd.
38. Shantou Jiazhou Foods Industry
39. Shantou Jin Cheng Food Co., Ltd.
40. Shantou Longsheng Aquatic Product Foodstuff Co., Ltd.
41. Shantou Ruiyuan Industry Company Ltd.
42. Shantou Wanya Foods Fty. Co., Ltd.
43. Shenzhen Allied Aquatic Produce Development Ltd.
44. Shenzhen Yudayuan Trade Ltd.
45. Thai Royal Frozen Food Zhanjiang Co., Ltd.
46. Xiamen Granda Import & Export Co., Ltd.
47. Yancheng Hi-king Agriculture Developing Co., Ltd.
48. Yanfeng Aquatic Product Foodstuff
49. Yangjiang Anyang Food Co., Ltd.
50. Yangjiang City Yelin Hoi Tat Quick Frozen Seafood Co., Ltd.
51. Yangjiang Wanshida Seafood Co., Ltd.
52. Yelin Enterprise Co., Ltd.
53. Zhangzhou Xinwanya Aquatic Product
54. Zhangzhou Yanfeng Aquatic Product
55. Zhanjiang Evergreen Aquatic Product Science and Technology Co., Ltd.
56. Zhanjiang Fuchang Aquatic Products Co., Ltd.
57. Zhanjiang Go Harvest Aquatic Products Co., Ltd.
58. Zhanjiang Haizhou Aquatic Product Co. Ltd.
59. Zhanjiang Hengrun Aquatic Co, Ltd.
60. Zhanjiang Jinguo Marine Foods Co., Ltd.
61. Zhanjiang Join Wealth Aquatic Products Co., Ltd.
62. Zhanjiang Longwei Aquatic Products Industry Co., Ltd.
63. Zhanjiang Newpro Foods Co., Ltd.
64. Zhanjiang Rainbow Aquatic Development
65. Zhanjiang Universal Seafood Corp.
66. Zhejiang Daishan Baofa Aquatic Products Co., Ltd.
67. Zhejiang Xinwang Foodstuffs Ltd.
68. Zhejiang Zhoufu Food Co., Ltd.
69. Zhoushan Corporation
70. Zhoushan Haiwang Seafood Co., Ltd.

## Appendix 2

### List of Topics Discussed in the Preliminary Decision Memorandum:

1. Background
2. Respondent Selection
3. Questionnaires
4. Scope of the Order
5. Separate Rates
6. PRC-Wide Entity
7. Use of Facts Available and AFA
8. Application of Total AFA to the PRC-Wide Entity
9. Selection of AFA Rate
10. Corroboration of Secondary Information
11. Rate for Non-Selected Companies
12. Preliminary Determination of No Shipments
13. Non-Market Economy Country
14. Surrogate Country and Surrogate Value Data
15. Surrogate Country
16. Economic Comparability
17. Significant Producers of Comparable Merchandise
18. Data Availability
19. Date of Sale
20. Targeted Dumping
21. Results of Targeted Dumping Analysis
22. Fair Value Comparisons
23. Export Price
24. Normal Value
25. Factor Valuations
26. Currency Conversion
27. Regal Revocation Request

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